

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 22, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2565

Introduced by Assembly Member Eng

February 22, 2008

An act to add Section 1254.4 to the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2565, as amended, Eng. Hospitals: brain death.

Existing law, the Uniform Determination of Death Act, defines a person as being “dead” to include when an individual has sustained irreversible cessation of all functions of the entire brain, including the brain stem. Existing law requires a determination of death to be made in accordance with accepted medical standards.

Existing law, administered by the State Department of Public Health, provides for the licensure and regulation of health facilities, including general acute care hospitals. A violation of the provisions regulating health facilities is a crime.

This bill would require a general acute care, ~~acute psychiatric, or special~~ hospital to adopt a plan or procedure for providing a family or next of kin with a reasonable period of accommodation, as defined, from the time that a patient is declared dead by reason of irreversible cessation of all functions of the entire brain, including the brain stem, in accordance with a provision of existing law, through discontinuation of life support for the patient. The bill would also require the hospital

to provide a the patient's *legally recognized surrogate decisionmaker, if any, or the patient's family or the next of kin, if available*, with a written statement of the policy developed pursuant to these provisions, as soon as possible when the potential for brain death is imminent, as determined by the treating physician, but no later than the time when a patient is declared dead by reason of irreversible cessation of all functions of the entire brain. *The bill would require the hospital to make reasonable efforts, as described, to accommodate special religious or cultural rituals of the patient or his or her family or next of kin.* By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1254.4 is added to the Health and Safety
- 2 Code, to read:
- 3 1254.4. (a) ~~A hospital licensed pursuant to subdivision (a),~~
- 4 ~~(b), or (f) of Section 1250;~~ *general acute care hospital* shall adopt
- 5 a plan or procedure for providing family or next of kin with a
- 6 reasonable period of accommodation, as described in subdivision
- 7 (b), from the time that a patient is declared dead by reason of
- 8 irreversible cessation of all functions of the entire brain, including
- 9 the brain stem, in accordance with Section 7180, through
- 10 discontinuation of life support for the patient.
- 11 (b) For purposes of this section, a "reasonable period" means
- 12 an amount of time afforded to gather family or next of kin ~~and~~
- 13 ~~make arrangements for special religious or cultural ceremonies at~~
- 14 ~~the patient's bedside.~~
- 15 (c) (1) A hospital subject to this section shall provide the
- 16 patient's *legally recognized surrogate decisionmaker, if any, or*
- 17 *the patient's family or next of kin, if available*, with a written
- 18 statement of the policy described in subdivision (a), as soon as
- 19 possible when the potential for brain death is imminent, as

1 determined by the treating physician, but not later than the time
2 when a patient is declared dead by reason of irreversible cessation
3 of all functions of the entire brain, including brain stem, in
4 accordance with Section 7180.

5 (2) *The hospital shall make reasonable efforts to accommodate*
6 *special religious or cultural rituals of the patient or his or her*
7 *family or next of kin. For purposes of this paragraph, a reasonable*
8 *effort shall include consideration of the needs of patients in urgent*
9 *need of care.*

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.